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Appropriations Committee
February 26, 2007

[AGENCY 11]

JON BRUNING: Mr. Chairman, members of the committee, I'm Attorney General Jon Bruning. Last name is B-r-u-n-i-n-g. Today my agency is requesting spending authority for funds that mostly are already budgeted, not for new money. We have a couple of small exceptions that we hope you'll approve. But, first of all, thanks for the work you do for the people of Nebraska. I often use this committee as an example when I'm talking...when I'm out around the state giving speeches. I say, hey, you think it's easy? You want to cut taxes? Well, you want to cut food from little kids, or medicine from old people? You know, where...which one of those you going to cut to make room? And I understand these are tough decisions, including our. And so going into it I know that you have a tough set of decisions to make, a tough role to play. So let me give you the list in order of our priority. The first thing is the State Settlement Cash Fund. Basically, this is a newly created cash fund. We're asking for spending authority of \$250,000 in FY '08, \$200,000 in FY '09. This is not new money. This money comes from national consumer settlements. These funds are court ordered to be used for the benefit of Nebraska consumers. The old trust fund came from these consumer settlements. An example is Ford rollover. And so the court order says, this money must be spent on behalf of consumers in the state of Nebraska. So Ford has Explorers that roll over. The national AG's get together and they sue Ford because these cars are rolling over and people are dying across the country. Ford pays into various states. Nebraska gets \$100,000, but the money comes and it says, spend this to educate consumers on whatever the issue is of the day. They generally don't say educate them on roll overs; they'll say educate them on whatever it is you think works best. And so that's what we've done. But in an effort to bring about even more transparency, all the spending, by the way, that we've done in the past has been very transparent. It's all public record, it's all available to you as members of the Appropriations Committee, and staff you can and do have all of that information. But to bring about even more transparency, we're now moving from this old trust fund to this new cash fund. And so we're here to ask you for authority to be able to spend that money. It still comes in under court order. And you're saying, how do you

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know this money is going to come in? Well, we don't necessarily know. This money has come in over time and, I guess, a moderate ten second history lesson. AG's, in the early 1980's, realized that they could be stronger if they acted together than if they acted alone or didn't act at all. And so AG's began to be somewhat forward in their thinking and pursue companies that they thought had crossed the line. The example for this state that I would use, during my first term we...the investigators in our office came to me and said, Yahoo has user-created chat rooms where sexual predators are looking for children. And I said, well, that's crazy. We went and looked at these things, and they had names that would just shock you, that I'm not even going to say here in public. So we go to Yahoo and we say, shut these things down. And Yahoo looks at us, little Nebraska, with one of the smallest budgets in the country of an AG's office and they say, pound sand. And so I call Eliot Spitzer, in New York, and I said, Elliot, I need your help. We've got 50 attorneys, you've got 650 attorneys, can you help us? Eliot said, sure, put my name on the dotted line. So we...I go back to Yahoo, I say, hey, now it's me and Spitzer. And Eliot had given me permission to do that. And Yahoo said, what do you want us to do? I said, shut down the chat rooms. Yahoo shut down thousands, tens of thousands, 70,000 user-created chat rooms, Yahoo shut them down at our request. And they paid the state of Nebraska a million bucks. I don't know if the money is here yet, but it's coming very soon. We're going to use it based on your budget and the Governor's budget for additional pursuit of these sexual predators, investigators over at the Patrol, prosecutors in our office, good things, we're going to use that money. But that's kind of the new paradigm among Attorneys General. That's where when you say, well, how do you know with this cash fund that there's going to be money there? That's how you know. These things have happened historically over time. You can't rely on them necessarily for ongoing funding forever, but they do help us over time do things within our consumer division. And what is our consumer division, what are we spending this stuff on? Well, it's kind of like the Better Business Bureau with teeth is the best way I can describe it. We created, for example, this identity theft repair kit; mailed this out around the state, not to everybody, we didn't have the money to do that. But we mailed some out to make sure people knew they were out there. It's got, you know if your

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identity is stolen it's got a plan of action, it's got a document list, it's got things you do. If we don't do this, I'm not sure who else in Nebraska is going to do it if we don't do it. So AG's offices, based on this money that they started getting from chasing companies across the line, like Yahoo, started doing more consumer outreach. Why us instead of the Better Business Bureau? The difference is we've got the teeth. If a company ignores us when we pursue them, we can go after them with a civil action. If they are real wrong-doers, we can go after them with a criminal action. That's the difference between us and the Better Business Bureau. The Better Business Bureau can embarrass them; we can sue them or even prosecute them. And we do, and we pursue them. In the last four years we've averaged about \$1 million in recovery for Nebraskans, that's a Nebraskan who calls us and says, hey, I got scammed by XYZ business. Sometimes they are good businesses. I was looking through, these are some letters I had put together, and I won't obviously read all of these to you. But basically the letter says, hey, you know, this company scammed me out of 400 bucks, can you get it back? Well, when somebody gets a letter from the Attorney General, they tend to...the business that's screwing around the Nebraska consumer tends to suddenly play ball because they know we've got the civil authority to sue them, we've got the criminal authority to prosecute. So these are thank you letters, just a few thank you letters, during our first term, cards and all this kind of stuff. I mean there are just stacks of letters that they put together and a few surveys. People love...I mean Nebraskans love and appreciate this, because it's the only place they can go with the teeth to get what they've want. If you've been hammered by a business, this is where you go to make it right. We'll make it right if you don't know how to make it right. So what we're asking is the ability to continue along these lines. We think that the service that we're providing Nebraskans, and this is just a representative sample of it, we think the service our Consumer Division is providing Nebraskans is a valuable service. We have brochures on this stuff. Shopping on the Internet, sweepstakes fraud, I mean you name it, consumer guides, how to get your name and number off of the telemarketers list, I mean valuable stuff that Nebraskans want. We want to continue to do it. But under the new paradigm, the new Cash Fund that we're setting up, we don't want to be back in here every time we want to

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print \$600 worth of brochures. So we're asking you for blanket authority, \$250,000 in '08, \$200,000 in '09. Why \$250,000 in '08? Well, we budgeted an extra \$50,000 for the bill that's out there that would require all public officials to have training in open meetings and open records. That bill is out there, we don't know if it's going to pass. If it does pass, we want to make sure we have the money inside of our operation to do it. Before we would have known we had the money, now under the new paradigm we'll ask you each time we want the money, we'll come back, you have addition oversight. Which I'm fine with. You guys, I mean I've always been proud of our operation. And I want you to see it, frankly, with your oversight I think you'll see that we've had a lot of success on behalf of Nebraskans, \$1 million dollars a year in direct recovery to consumers. By the way, before we got here the average was about \$200,000 or \$300,000 a year. So we made this thing better and stronger. I hired a woman, named Leslie Levy, to run the thing. She's a dynamo. And they work it over there. Mostly it's worked with volunteer consumer interns, volunteer interns from the university. So that way we can...because printing you can't get done for free. But interns we can get for free, they are the ones that are getting money back for Nebraskans. Fifteen thousand phone calls, almost 5,000 complaints, Nebraskans are using this thing, and we think it's valuable. So that's the first thing. Number two, this is kind of an odd situation. What we're asking is that you restore the base appropriation to our General Fund. Last year we had \$100,000 come in from AmeriQuest. And AmeriQuest is a national mortgage company, they've been using pressure tactics to get people to sign on the dotted line. National AG's go after AmeriQuest and say, you're crossing the line, Nebraska is part of the group that goes after AmeriQuest, we routinely do this. Right? Business crosses the line, we chase them down. AmeriQuest pays \$100,000 to Nebraska. Senator Pederson is chair of Appropriations, he says, well, you're getting \$100,000, we're going to lower...you can use that \$100,000, but we're going to lower your base General Fund appropriation by \$100,000. Okay. We say to Senator Pederson, ah, you know if you do this we can take the money, for sure, out of the old trust fund; we can use that to survive one more year; but if you do that all the time, what's going to happen is the consumer operation is going to disappear. Right? If we go to...if we start using the money that comes in from Yahoo,

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or the money that comes in from AmeriQuest, which comes in maybe a lot this year, and nothing next year, and a little the third year, it's like this, we start using that for General Fund operations, pretty soon we're going to cannibalize our own General Funds, or we're going to have to get rid of our consumer operation. Senator Pederson says, uh, you're right, good point, he says, but it's too late now in the process, now we're at May, the budget is out on the floor, let's not turn the whole thing on its head; he says, I'll write you a letter, you can go back to the committee next year and ask them to restore the appropriation to \$100,000, \$100,000 higher. So we've got the letter, I think it's in your packet from Senator Pederson saying, yeah, I did it, I request that...Senator Pederson says, I would request that the Appropriations Committee put it back. So that's the best way I can describe what happened and why we're asking. That is a General Fund request. It is a General Fund request. And if you choose not to grant it, which is your choice, we're going to have to decide what else to cut. We're going to have to cut a job, probably, that's the easiest way to do it, find somebody's \$70,000 job and cut it. Which one we cut, I don't know. I think everybody we've got over there does important work, whether it's the guys issuing opinions, or the women...or whoever it is. We've got some of the best attorneys in the state, whether they're doing civil litigation or whether they're doing Medicaid fraud, we're going to have to figure out who to cut. Somebody has got to go, if the \$100,000 isn't restored. Those are the hard choices people make. I'm telling you I don't relish that choice. I think we're running a tight ship right now. I'm not sure who it would be. And I don't want to throw out random, you know, this is the one we'll cut. My predecessor, Don Stenberg, used to routinely, when the Appropriations Committee would ask, who would you cut, he would say, I would cut the group that does criminal review of pedophilia cases. That's who he'd cut. So he'd say, you know, you want to cut the guy who prosecutes pedophiles? No, I'm not going to do that. I mean we can play that game, but I've sat where you sit; you play that game and I think all it does is annoy you guys. But I'm telling you, somebody has to go among the group. The third thing is the state match for Medicaid fraud. In 2004, I came to the Legislature and asked that we set up a Medicaid Fraud Unit. Nebraska, at that time the Legislature agreed. Nebraska was the 49th state to set up a Medicaid Fraud Unit, 49th

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state. These things work. The federal government, for the first 18 months of ours, paid 90 percent, the state paid 10 percent. We paid that out of our own budget. Again, out of this budget, we paid it out of this budget just to tell the Legislature, I promise you it will work, don't give us a nickel, we'll make it self-funding by the time we come back and talk to you about it. We promised...I sat here in front of the committee, in 2004, and said, I promise you it will be self-funding. Well, you know what? As I sit here today it is self-funding. We have recovered \$2.3 million since we've been in action. The state's total cost has been \$235,000. This thing cost the state about \$700,000 a year, Nebraska pays 25 percent of that, or \$175,000. Your budget, the Governor's budget funds \$110,000 or \$100,000 of that, so we're about \$66,000 short. So my request to you is that you fund Nebraska's 25 percent share of the Medicaid Fraud Unit in full. I promised you we'd make it work. We're not only making it work, in terms of being self-funding, it's 10 to 1. We've recovered \$2.3 million, we've only spent \$230,000. This thing works. Not only are we recovering cash for the state that goes right back into our coffers, we're the cop on the street. There's the speed trap effect, right. If somebody has got a speed trap out here on Normal Boulevard and we're all driving to the Capitol, and you see the cop sitting out there with the gun, we're all going to slow down. It's the same way with medical providers in this state. They know that the Medicaid Fraud Unit in this state now exists. And when they know we're out there, they're going to play the game by the rules, or be more likely to play the game by the rules. So I think we're doing the job. I could walk you through the cases, there are obviously cases that tug at your heartstrings. You've got, you know, physical neglect, you've got patient care that's extremely poor, you've got physical contact between employees and nursing home residents. I mean this is serious stuff. And these people do their job very well. And the feds pay for 75 percent of it, so I mean it's a bargain for Nebraska to have it out there. And with a 10 to 1 recovery, I'm not saying we can keep that up, I mean we've done...we told them...and we were scared that first year. I said, listen, I made a promise to the Legislature that you guys would be self-funding. I went over to that unit and I said, you better figure out, you know, who's crossing the line in this state and nail them. And they have, they've done the job. We hired some former prosecutors, and these guys

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have...I mean they've gotten it done. The fourth thing, revolving fund appropriations. Both of these are PSL requests. Basically, the first one is HHS licensure and regulation. Again, this is not new money. This is a cash fund, comes from doctors license fees. This is for another full-time attorney. These are the people in our office who prosecute doctors or nurses who are self-medicating, or operate while they're drunk or on drugs. A guy was persona non grata, up in Norfolk. As we chased down this heart doctor who installed a cath in a guy while he was drunk. He left the hospital drunk and got picked up for DUI at like .11. He pulled off the cath, I mean the guy must be unbelievably good if he was able to do it drunk. I'm not sure I could walk. This guy ended up he put a heart cath in. So I mean we have to make sure that doctors and nurses play by the rules. And so we prosecute doctors and nurses. A lot of them have the coke, you've got the big drugs stashed there, right? You can imagine. Doctor Beeper's got the drug stash, and boy his back is hurting, so he starts to self-medicate a little bit, and in go the pills, or the dentist. You don't want your doctor or your dentist working on you while they're high on OxyContin, right? I mean that's a big one, by the way, is pain killers, these guys are all over the pain killers. So we have pursued those guys. What we're asking for is a PSL of \$62,000, a PSL increase \$62,000 each year. My belief is that HHS will be in agreement with this, if you choose to fund it. Fifth, school litigation program, increase the PSL. Again, this is not new money, we just want to spend the money that's already appropriated internally. Let me tell you the story of Washington, DC law firm, my predecessor and the low-level radioactive waste. The Washington, DC firm, I mean...and this is, for those of you, I mean think about, if you were here, I guess, Senator Engel, you recall this, they spent \$20 million of the state's money while the Attorney General's Office was not watching, \$20 million in legal fees. It was absolutely sickening because there was nobody managing. So when we came in, we decided to do things in a different way. We said, we're going to watch the attorneys, nothing against the attorneys, obviously I'm not...but you know these big law firms this is what they do is attorneys will turn the crank as hard as they can, \$20 million and nobody could stop it. So now what we do is we have people in our office that manage these cases and look at every bill and look at every hour and make darn sure that they're not spending more

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money than we allow them to. So what we're asking, no additional money in the school litigation. We want to have our people monitor the work that's done by outside counsel. We're going to have our people watching. So we're asking that you increase the PSL and spend money that's already appropriated internally, but allow us to use it to monitor these lawyers. And there's been, I'm sorry to say, tons of money on this school finance stuff, tons and tons of money. And we want to manage it, and make sure they don't spend anymore than they have to. We have to use outside counsel. Why? Because the case could get settled tomorrow and if you tell me, Jon, go hire six more lawyers to do the school finance cases in the AG's office, we could hire the six lawyers, but then if we settle the thing, we've got to fire them, right? That's why the state hires outside counsel from time to time. So we have done...we have had to hire outside counsel in this thing. But we're just asking for your permission to manage them with an inhouse attorney. Number five, General Fund with water litigation. Dave Cookson talked to you about that, I think, yesterday. So you guys know all about the water litigation and the request for General Funds there. And that's it, that's all I have. And nobody else from here is going to talk, I'm the only one. So if you have any questions, you're welcome to fire away. Thank you for hearing me out. [AGENCY 11]

SENATOR HEIDEMANN: Thank you, Jon. Is there any questions? Senator Nantkes. [AGENCY 11]

JON BRUNING: Yes, Senator. [AGENCY 11]

SENATOR NANTKES: Yes, thank you. Thank you, Mr. Attorney General. Thanks for joining us here this afternoon. I wanted to go back to just something that you touched upon in the beginning of your testimony. And you gave the example about the states involvement in class actions like with the Ford roll overs, etcetera. And I'm glad that then you also used an example where the state was proactive in pursuing issues related to the Yahoo settlement and otherwise. And I was wondering if you could share with this committee maybe other instances where your office is then more proactive in trying to

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be aggressive in pursuing funds to draw down for Nebraska from, you know, bad actors within other communities. [AGENCY 11]

JON BRUNING: Absolutely. Well, Consumer Choice Foods, these were local folks that were selling meat to people, but then they were selling kind of bulk beef. But then they would sell you a freezer to go with it, and if they figured you weren't financially very sharp, what they would do is say, don't you need a freezer to put this meat in? You could put it in your garage. Oh, yeah, I do need a freezer. Well, what can you afford to pay each money? Well, I can afford to pay \$69. Well, that's great, we can make a freezer happen, \$69 a month, but it's 40 months. Right? So you end up paying 2,800 bucks for a \$600 freezer. We pursued these guys, put the hammer down, made them stop doing business, and finally won at long last. What's the latest one, Vickie? Yeah, Kopepke (phonetic), I mean we just pursued Kyle Kopepke (phonetic). This guy was setting up these war museums, basically, where he'd go out in small towns around Nebraska and say, you know, why don't you bring in your war memorabilia and I'll display it in these small towns. He'd get the small town to give him a building downtown that may have been vacated. And this guy, of course, all he was trying to do was get free housing for himself. But, you know, these war veterans they're proud of their service, and they ought to be proud of their service, so they'd bring down their helmet and their gun and whatever from Korea or Viet Nam or World War II and Kopepke (phonetic) would just take the stuff. Basically, Kopepke (phonetic) would throw it in the corner and he was looking to get a free house from the village of you name it. So we've pursue Kopepke (phonetic). And again, if we don't, who will? Because if we don't, the county attorneys don't have the resources for this. The county attorneys are overworked. I mean, you just heard from the Supreme Court. I mean the justice system is stretched, right? I mean there's nobody really in there that can pursue those kinds of cases if we don't. Those are on a local level. On a national level, what was the big one? Yeah, Direct TV. I mean we pursued Direct TV for, you know, basically unfair advertising. We've pursued... [AGENCY 11]

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SENATOR NANTKES: That's...I'm sorry to interrupt, but that's with the National Attorney General's Association, or that was initiated by the state of Nebraska in your office? [AGENCY 11]

JON BRUNING: No, that was not initiated by us. Mostly, the way these things work, Senator, is we get together...the consumer chiefs get together at national conferences, the consumer chiefs get together and they throw out ideas. And somebody says, hey, perhaps we ought to chase down XYZ company, and four or five get together. There's rarely one lead. Yahoo was very rare in that it was only us and New York. But as you look at, you know, nine out of ten of these, it's a group...AG's have learned that their group power is what causes these large national companies to come to the table. They learned it most specifically in tobacco. When tobacco came to bear, there were four states that initially went after them. The other 46 followed suit and great tobacco decided to pay out billions, of which we receive \$45 million a year. But that's become the new rubric. So as you look at these national settlements, I can hardly name a handful that have been pursued by only one state. The national settlements are many, many states. But what you'll have is a working group of 10 or 12 of them. And if you're on the central committee, for lack of a better word, so if there's 40 states that end up signing on, the 10 or 12 that actually do the work get more money. So Direct TV is a perfect example, I think we got \$400,000 roughly, the other states each got \$50,000, because we were one of the original ten. Leslie our lawyer, our consumer chief, was the driving...one of the driving forces. Now, would I say, was the driving force, I wouldn't take that credit. [AGENCY 11]

SENATOR NANTKES: That's helpful, thank you. And I just think (a) it's an interesting topic for the committee and for the public to discuss, and give you an opportunity to promote your good work. But (b) I'm trying to draw out even more clearly the relationship that you mentioned earlier in your testimony with the former Appropriations Committee and former Chair Pederson, and you know trying to kind of get a handle on the relationship that may or may not exist between General Funds and allowing you or

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maybe provide incentive for your office to more aggressively pursue settlements and cash funds to help fund general operations and less reliance on taxpayer dollars.

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JON BRUNING: I appreciate that insight. I'm glad you brought that up, because I don't know, the incentive issue is one that I want to make sure the committee understands. If...I mean there's two ways. If the committee allows us, gives us authority to spend this money that we're bringing in on behalf of consumers, it does incent us to continue to participate in those, because we don't have to cannibalize other parts of our agency. If the committee says, and this is why Senator Pederson changed his tack, because we convinced him exactly what you've just pointed out. If Senator Pederson's method of last year, well, you brought in \$100,000, so we're going to cut your General Fund by \$100,000. At that point I'm thinking to myself, geez, what about next year? The General Fund is going to be cut. I don't want to bring in anymore of this money, because if I bring this money in, it's just going to cut the General Fund, and pretty soon the year when I don't bring it in we're not going to be able to pay anybody. And so then I got to decide get rid of the consumer operation, which is wildly successful, and Nebraskans love it, get rid of the consumer operation, or do I fire the guy that does AG opinions for the state senators? You know, it's like uh, I don't want to get rid of either one. I think both are highly productive. And so Senator Pederson realized after he did it...you know, he kind of did it, and then came back and said, you know, this is fair, right? He wasn't trying to hurt us. I mean we had an excellent relationship with Senator Pederson. But when we talked to him, he realized, oh that probably wasn't what I wanted to do. Just go back and fix it next year, it will be all right. So I'm hoping that that's the case. If it's not, I guess we'll, you know, we'll survive. But it is the disincentive issue that I'm talking about. I want to make sure that we continue to be incented to go hammer out these national settlements, because I think they're good. First of all, we don't do them against companies that don't deserve them. There's always some company out there screwing up that we can chase down. Right? I mean there there's...you know, I got a book full of them here. And we can continue to do those, which I think is actually a valuable role of

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attorneys general or not. And so, thank you for pointing that out, Senator. I think that's an excellent point and I hadn't made it. So thank you. [AGENCY 11]

SENATOR NANTKES: I'm sorry. Can I ask just one more question? [AGENCY 11]

JON BRUNING: Of course, as many as you want. [AGENCY 11]

SENATOR NANTKES: I hate to monopolize your time. But I agree with you. I think that overall the public does love the consumer protection work that your office does. It's a niche that's really underserved in our state, consumer protection and consumer rights. Could you explain for the committee, though, roughly about how much of your budget or how much of your staff is spent on some of those educational programs, percentage or otherwise, just a rough kind of estimation. [AGENCY 11]

JON BRUNING: Well, the whole consumer...I would say the whole consumer division each year, the reason we came up with these numbers, \$200,000 and \$250,000, that's about how much we're spending for that operation. So if we're printing off brochures, and we're going to county fairs, we've got booths at county fairs or the state fair, where we hand that stuff out, that's probably about it. We try not to pay the internal ongoing costs, salaries and that sort of thing. We'll pay consumer interns out of that. We'll, you know, when we have...some of them get paid, most of them are volunteers. If they stick around for a year or so then we pay them 9 or 10 bucks an hour for the really good ones. We'll pay 9 or 10 bucks an hour for the bilingual ones to make sure that they stick around. But that's how it's broken out. It ends up being spent on this stuff, that's what it gets spent on. [AGENCY 11]

SENATOR NANTKES: So not really attorneys in that department? [AGENCY 11]

JON BRUNING: That's right. Leslie Levy is paid out of the General Fund, that's exactly right. [AGENCY 11]

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SENATOR NANTKES: Okay. Thank you. [AGENCY 11]

SENATOR HEIDEMANN: Any other questions? On program 290, the Molly State Settlement, it says you want to add 6 FTE and benefits at the cost of \$387 for the first year, \$39,323. Do you think that cash fund will be able to sustain that year after year after year after year? [AGENCY 11]

JON BRUNING: Which? Okay. Yes. We've changed that, Senator. Scott, are you comfortable? Okay, so that's different. We decided to take a different tact with it because the word was FTE's are not a go. (Laugh) So don't even think about it, so we won't. [AGENCY 11]

SENATOR HEIDEMANN: Okay. [AGENCY 11]

JON BRUNING: And we're not. [AGENCY 11]

SENATOR HEIDEMANN: That was just a concern. Okay. [AGENCY 11]

JON BRUNING: No, he made it clear to us, and we do...we listen when it's made clear to us. So that's why it was changed. [AGENCY 11]

SENATOR HEIDEMANN: Senator Fulton. [AGENCY 11]

SENATOR FULTON: Just a clarification. What's being changed? The 6 FTE, this is Program 290, that request no longer exists? I guess, what... [AGENCY 11]

JON BRUNING: That's right. We're asking for the blanket money of 250 and 200; not going to spend it on FTE's. Is that a fair way to describe it, Scott? Okay. [AGENCY 11]

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SCOTT DANIGOLE: For operations. [AGENCY 11]

JON BRUNING: For operations, that's exactly right. [AGENCY 11]

SENATOR HEIDEMANN: Senator Nelson. [AGENCY 11]

SENATOR NELSON: Sorry, I had to leave for a while, and came in late. But would you just basically go over your five priorities again. I think they are restore your base and just what those were? [AGENCY 11]

JON BRUNING: Yes, I'd be glad to. The first one was to...we now have a new rubric, and that is a cash fund. We used to have a trust fund. And the trust fund was as we would bring in these national settlements that Senator Nantkes and I were talking about, bring in the national settlements, we'd spend it on operations in the consumer division. And so now we're going to have...instead of a trust fund, part of the concern was that basically it was an accounting issue, whether trust fund was the right way to categorize it. The other concern was let's make this as transparent as possible. It was all transparent, public record. But now let's bring it before the Legislature every couple of years so we can tell you what we're doing. And I said that's a great idea. I want the Legislature...I'm proud of our consumer division. I want the Legislature to see it. So the new rubric is a cash fund. And rather than come in and ask for...because we don't know exactly the issue of the day is going to be always, right? So we're asking for authority to spend \$200,000, \$250,000 in '08, \$200,000 in '09, on things like the ID theft repair kit. This, by the way, is the first ID theft repair kit in the country. We think it's a service to Nebraskans that they do appreciate. There's nowhere else to go. If you talk to the guys at...the collectors, or you talk to the banks, somebody gets their identify stolen, they don't know where to find all this information in one place. First place it's been. And the Better Business Bureau told us they loved it, too. So we worked hard on this thing. So that was the first request. The second request was to restore our base. Last year, when an AmeriQuest settlement came in for \$100,000, Senator Don Pederson said, well, we

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can just cut your General Fund. It was a fairly well publicized request. Senator Don Pederson said... [AGENCY 11]

SENATOR NELSON: Yeah, fine, thank you. I caught all that. [AGENCY 11]

JON BRUNING: You caught all that. [AGENCY 11]

SENATOR NELSON: Very briefly, the next priority. [AGENCY 11]

JON BRUNING: The next ones were PSL requests. I guess the third one was Medicaid fraud. And if you recall that discussion about Medicaid fraud, it's now self-funding, in fact 10 to 1. The fourth one was to restore a PSL in HHS licensure and regulation. That's the one that pursues the dentist that decides to take his own OxyContin. And those people, by the way, let me give you those numbers, because I had them here before me, 33 percent increase in complaints referred to our office since 2003. HHS added two investigators, which is a 20 percent increase in their investigative staff. We've had no additional lawyers. So basically, the lawyers are burned out. They've been screaming at me for four years. And we were trying and we did some, thank you to this committee, we did some restoration of salaries. Although we're not...I wouldn't call us great. We pay our clerks 9 bucks an hour, they make \$15 over at the county attorneys office. So you know we're not living fat, but we're...at some point when the attorneys are telling us they're quitting, you know how it is, it's triage in state government, and this is now the source of most bleeding. [AGENCY 11]

SENATOR NELSON: Seems like the list of doctors and nurses and dentists just gets increasingly long ever time I look at it. How many attorneys do you have? [AGENCY 11]

JON BRUNING: We have three, and they're handling hundreds and hundreds and hundreds of cases. And it is grueling work. You can imagine Doctor Beeper is able to hire the very best defense around always, and they just beat us to death, right? I mean

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if you're a high profile dentist making 200 grand a year, you can hire a good attorney. And so it's all out war every time. [AGENCY 11]

SENATOR NELSON: You don't think the county attorney should handle that case? [AGENCY 11]

JON BRUNING: (Laugh) You know, if you want to give it to them, I mean I think the problem is it's very specialized work. It's very specialized work and so you need somebody to do it all the time. [AGENCY 11]

SENATOR NELSON: No, I mean representing the doctor, like they want the school boards to. [AGENCY 11]

JON BRUNING: Oh, right, right, right. (Laugh) I don't know if the doctors would accept that. You know, they make too much money. They're going to go hire whoever they can afford. You know. But our attorneys just said they were burned out, 33 percent case increase with the same staff. And so they're just...we've probably turned over, I don't know, six or eight people in the four years we've been here. And I mean that's just not good, that just takes...you know, when you're turning over attorneys...and we...you know...we think we treat them great. And so I don't think it's their treatment. I think they would tell you they're just...they work hard. That's the one place in state government, I mean, they're working, I mean these attorneys they get underpaid by and large. I mean...and they're over there working every Saturday and Sunday. It's just a tough deal, right? I mean they can go into private practice and work every Saturday and Sunday. So then the fifth thing, Senator, I'm sorry, school litigation program. These are for the...this is just a PSL increase again. Not requesting additional money to manage the litigation, manage our lawyers, basically. [AGENCY 11]

SENATOR NELSON: Thank you. [AGENCY 11]

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JON BRUNING: You're welcome. [AGENCY 11]

SENATOR HEIDEMANN: Any other questions? Thank you for coming in today, Jon.
[AGENCY 11]

JON BRUNING: Thank you, Senator. [AGENCY 11]

SENATOR HEIDEMANN: Any other testimony for this agency budget? Seeing none, we will close the public hearing on Agency 11, the Attorney General, and open up the public hearing on Agency 15, the Board of Pardons and Parole. []